

95TH CONGRESS
1ST SESSION

H. R. 9320

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 1977

Mr. MURPHY of New York introduced the following bill; which was referred jointly to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries

A BILL

To establish a national policy for the preservation of historic, architectural, archeological, and cultural resources, to establish a coordinated national historic preservation program, to establish a maritime heritage preservation program, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That this Act may be cited as the "National Historic Preser-
- 4 vation Policy Act of 1977".

TITLE I

DECLARATION OF NATIONAL HISTORIC PRESERVATION

POLICY

SEC. 101. The Congress, recognizing the importance of the existing elements of our national heritage to the maintenance and continuing development of human life and the American society, declares that it is the duty and continuing policy of the Federal Government, in cooperation with other nations, the States, and local communities, and private organizations and individuals—

(1) to develop and use means and measures, including financial and technical assistance, for the purposes of fostering and promoting conditions under which our modern society and our heritage can exist in productive harmony and can fulfill the social, economic, and other requirements of present and future generation

(2) to provide leadership in the preservation and conservation of the historic, architectural, archeological, and cultural properties of the United States and of the international community of Nations;

(3) to administer federally owned or controlled historic and cultural properties in a spirit of stewardship and trusteeship for the benefit of present and future generations; and

(4) to administer the national historic preservation

1 program in partnership with the States and to insure
2 that Federal policies, plans, programs, activities, and
3 projects (A) contribute to the preservation and con-
4 servation of nonfederally owned historic and cultural
5 properties, (B) are coordinated with State, community,
6 and private activities to preserve and conserve historic
7 and cultural properties, and (C) contribute to the pres-
8 ervation of significant historic and cultural properties
9 of other Nations.

10 TITLE II

11 NATIONAL HISTORIC PRESERVATION PROGRAM

12 SEC. 201. To facilitate the effective implementation of
13 the National Historic Preservation Policy, set forth in title I
14 of this Act, and to provide further for coordinated Federal
15 efforts—

16 (1) the Advisory Council on Historic Preservation,
17 as established by section 201 of the Act entitled “An
18 Act to establish a program for the preservation of addi-
19 tional historic properties throughout the Nation, and for
20 other purposes”, approved October 15, 1966 (80 Stat.
21 917; 16 U.S.C. 470i), is renamed the Council on
22 Historic Preservation;

23 (2) the provisions of the following acts which re-
24 late to the historic preservation responsibilities of the
25 Secretary and the National Park Service, except as

1 they may be related to management of lands, waters, or
2 interests therein of the National Park System or other
3 lands, waters, or interests therein, under the jurisdiction
4 or control of the Secretary are to be administered by the
5 Council:

6 (A) The Act entitled "An Act to provide for
7 the preservation of historic American sites, build-
8 ings, objects, and antiquities of national significance
9 and for other purposes", approved August 21, 1935
10 (49 Stat. 666; 16 U.S.C. 461 et seq.).

11 (B) Section 203 (k) (3) of the Federal Prop-
12 erty and Administrative Services Act of 1949 (40
13 U.S.C. 484 (k) (3)).

14 (C) Section 7 of the Act entitled "An Act to
15 provide for the disposition, control, and use of sur-
16 plus real property acquired by Federal agencies
17 and for other purposes", approved August 27, 1935
18 (49 Stat. 885; 40 U.S.C. 304a-2).

19 (D) The Act entitled "An Act to further the
20 policy enunciated in the Historic Sites Act and to
21 facilitate public participation in the preservation of
22 sites, buildings, and objects of national significance
23 or interest and providing a national trust for his-
24 toric preservation", approved October 26, 1949 (63
25 Stat. 927; 16 U.S.C. 468 et seq.).

1 (E) The Act entitled "An Act to provide for
2 the preservation of historical and archeological data
3 (including relics and specimens) which might other-
4 wise be lost as a result of the construction of a dam",
5 approved June 27, 1960 (74 Stat. 220; 16 U.S.C.
6 469).

7 (F) The Act of October 15, 1966, referred to
8 in paragraph (1).

9 (G) Section 2124 of the Tax Reform Act of
10 1976 (90 Stat. 1916-1920).

11 (H) The provisions of section 8 (relating to
12 the National Register of Historic Places) of the
13 Act entitled "An Act to improve the administra-
14 tion of the National Park System by the Secretary
15 of the Interior, and to clarify the authorities appli-
16 cable to the system, and for other purposes", ap-
17 proved August 18, 1970 (84 Stat. 825; 16 U.S.C.
18 17d).

19 SEC. 202. In furtherance of the Convention Concerning
20 the Protection of the World Cultural and Natural Heritage
21 (hereinafter in this Act referred to as "the World Heritage
22 Convention"), approved by the Senate on October 26, 1973,
23 and other international cultural heritage activities, the Coun-
24 cil shall—

25 (1) coordinate United States participation, in co-

1 operation with the Department of State, in the World
2 Heritage Committee; and

3 (2) establish a program to nominate historic and
4 cultural properties of universal significance to the World
5 Heritage Committee on behalf of the United States:
6 *Provided*, That no such nominations shall be executed
7 by the Council pursuant to this subsection until sixty
8 days after notification of the Speaker of the House
9 Representatives and the President pro tempore of the
10 Senate of the intended action: *And provided further*,
11 That each such nomination shall include evidence of
12 adequate legal protection to insure preservation of the
13 property and its environment, which may include appro-
14 priate statutory protections or recommendations as to
15 those protections that would require further congres-
16 sional action.

17 SEC. 203. In addition to the duties set forth in section
18 202, the Council shall—

19 (1) expedite action on determinations of eligibility
20 for, and nominations to, the National Register of His-
21 toric Places of any properties proposed for sale, transfer,
22 demolition, or substantial alteration as a result of action
23 by any Federal agency;

24 (2) develop and make available to Federal agen-
25 cies, State and local governments, private organizations

1 and individuals, and other nations and international or-
2 ganizations pursuant to the World Heritage Convention,
3 training in, and information concerning, administrative,
4 legal, and professional methods and techniques for the
5 preservation, rehabilitation, restoration, and mainte-
6 nance of historic and cultural properties;

7 (3) advise, and provide or arrange for technical
8 assistance to, Federal departments and agencies, State
9 and local governments, private organizations and indi-
10 viduals, and other Nations and international organiza-
11 tions in furtherance of the World Heritage Convention,
12 in the identification, evaluation, preservation (including
13 maintenance, rehabilitation, adaptive use, and restora-
14 tion) and protection of historic and cultural properties;

15 (4) review and evaluate the plans of transferees of
16 surplus Federal properties transferred for historic monu-
17 ment purposes to insure that the historical, architec-
18 tural, archeological or cultural significance will be pre-
19 served in the rehabilitation, restoration, improvement,
20 adaptive use, maintenance, and repair of such proper-
21 ties;

22 (5) establish and maintain a program, in coopera-
23 tion with the National Trust for Historic Preservation,
24 chartered by Congress by the Act of October 26, 1949,
25 referred to in section 201 (2) (E), for the emergency

1 acquisition of real and personal property, or any
2 interests therein, included in the National Register
3 and threatened with immediate demolition or impair-
4 ment: *Provided*, That (A) when the Council deter-
5 mines that such acquisition is in the public interest and
6 will further national preservation policy as provided
7 herein, the Attorney General shall, if necessary, institute
8 condemnation proceedings on behalf of the Nation
9 Trust for Historic Preservation, in which title will vest,
10 and (B) upon acquisition of a property interest pursuant
11 to this subsection, the National Trust for Historic Pres-
12 ervation shall attempt to convey such interest to any
13 governmental or nongovernmental entity under such
14 conditions as will insure the property's continued pres-
15 ervation and use, except that if, after a reasonable
16 time, the National Trust for Historic Preservation, with
17 the approval of the Council, determines that there is no
18 feasible and prudent means to transfer such property and
19 to insure its continued preservation and use for the pub-
20 lic benefit, then the National Trust for Historic Preser-
21 vation may convey the property at the fair market value
22 of its interest in such property to any entity without
23 restriction;

24 (6) evaluate other Federal agencies' programs
25 which could further the objectives of this Act and rec-

1 commend measures to the heads of such agencies to fur-
2 ther such coordination;

3 (7) annually report to the President and the Con-
4 gress on the national historic preservation program and
5 on current and emerging problems of preserving and
6 conserving historic and cultural properties; such report
7 shall include the Council's evaluation of the effectiveness
8 of the programs of Federal departments and agencies
9 and the States for carrying out the purposes of this Act;
10 and shall also include an analysis of the accomplishments
11 of the Historic Preservation Fund for the period re-
12 ported and any recommendations which the Council
13 determines are necessary to improve the operation of the
14 fund and the national historic preservation program;

15 (8) establish criteria, guidelines, and standards to
16 be applied by Federal agencies and the States in the
17 implementation of this Act, and establish such rules and
18 regulations as are necessary to carry out the purposes
19 and provisions of this Act.

20 SEC. 204. All Federal agencies shall, in accordance with
21 guidelines, standards, criteria, and procedures established
22 by the Council—

23 (1) survey, inventory, and nominate to the Na-
24 tional Register, in cooperation with the appropriate
25 State historic preservation officer, all districts, sites,

1 buildings, structures, and objects which appear to meet
2 the criteria for inclusion in the National Register and
3 are under the jurisdiction or control of such agency;
4 priority shall be given to any properties or areas which
5 may be affected by any Federal, federally assisted, or
6 federally licensed undertaking: *Provided*, That such sur-
7 vey and inventory activities shall be coordinated with
8 statewide surveys and preservation plans: *And provide*
9 *further*, That if the agency and the appropriate State
10 historic preservation officer cannot agree on whether a
11 property may meet the criteria, the agency or State
12 historic preservation officer shall refer the matter to the
13 Council for final decision within forty-five days after
14 receipt of the referral;

15 (2) in cooperation with the appropriate State his-
16 toric preservation officer, survey, inventory, and deter-
17 mine initially the eligibility for inclusion in the National
18 Register of non-federally-owned historic and cultural
19 properties that may be affected by any Federal, federally
20 assisted, or federally licensed undertaking under the direct
21 or indirect jurisdiction of the agency: *Provided*, That
22 such survey and inventory activities shall be coordinated
23 with statewide surveys and preservation plans: *And*
24 *provided further*, That if the agency and the appropriate
25 State historic preservation officer cannot agree on

1 whether a property may meet the criteria for inclusion
2 in the National Register, the agency or State historic
3 preservation officer shall refer the matter to the Council
4 for final decision within forty-five days after receipt of
5 the referral;

6 (3) initiate measures and procedures to insure that,
7 after compliance with section 106 of the Act of Octo-
8 ber 15, 1966 (referred to in section 201(1) of this
9 Act), where, as a result of the action or assistance of
10 an agency, a property included in, or eligible for inclu-
11 sion in the National Register is to be substantially altered
12 or destroyed, timely steps are taken to recover historic
13 and archeological data and to make or have made,
14 records of the property;

15 (4) cooperate with purchasers and transferees of
16 any property included in, or eligible for inclusion, in the
17 National Register in the development of plans for uses
18 of such property that are compatible with preservation
19 and conservation objectives without imposing unreason-
20 able economic burden on public or private interests;

21 (5) assume responsibility for the preservation,
22 maintenance, rehabilitation, renovation, adaptive use,
23 and restoration of properties included in, or eligible for
24 inclusion in, the National Register of Historic Places
25 under their jurisdiction or control in accordance with

1 criteria and standards developed by the Council in con-
2 sultation with the National Park Service and the Gen-
3 eral Services Administration; and develop a plan for the
4 future use of such properties, in consultation with the
5 Council; and

6 (6) cooperate with the Council, to the maximum
7 extent possible, to coordinate existing programs with
8 activities undertaken in accordance with this Act.

9 SEC. 205. Notwithstanding any other provision of law,
10 the Secretary, through the National Park Service, shall
11 study and investigate properties included in the National
12 Register which are under the jurisdiction or control of other
13 Federal agencies and from time to time shall report and rec-
14 ommend, with the concurrence of the Council, to the Speak-
15 er of the House and the President pro tempore of the Senate
16 that the administrative jurisdiction or control of such prop-
17 erties be transferred to the Secretary. One hundred and
18 eighty days after the date on which any such report or rec-
19 ommendation has been submitted, and with the concurrence
20 of the Director of the Office of Management and Budget, the
21 head of the agency exercising administrative jurisdiction or
22 control over the property shall transfer jurisdiction over the
23 property, together with all funds and personnel available
24 for the development, maintenance, and interpretation there-
25 of, as may be determined by the Director of the Office of

1 Management and Budget, to the Secretary. Property so
2 transferred shall be administered by the Secretary as a unit
3 of the National Park System in accordance with the Act of
4 August 25, 1916 (35 Stat. 535), and in accordance with
5 such cooperative agreements as the Secretary and the head
6 of the transferring agency may determine to be necessary or
7 desirable for the continued use, if any, of such property by
8 the transferring agency in a manner consistent with preser-
9 vation of the historical, architectural, archeological, or cul-
10 tural characteristics that qualified it for inclusion in the Na-
11 tional Register.

12 SEC. 206. (a) The Council shall, within eighteen months
13 after the effective date of this Act, submit a report to the
14 President and the Congress on preserving and conserving the
15 intangible elements of our cultural heritage. This report shall
16 include recommendations for legislative and administrative
17 action by the Federal Government to encourage the continua-
18 tion of the diverse traditional historic, ethnic, and cultural
19 activities that underlie our American heritage.

20 (b) The Council shall submit a report to the President
21 and the Congress by January 1, 1981, reviewing the opera-
22 tion of the Historic Preservation Fund and the national his-
23 toric preservation program for the preceding four fiscal years
24 and recommend an appropriate funding level, the time
25 period for the authorization for appropriations from the fund,

1 and other appropriate legislative action to be undertaken
2 upon the expiration of the current fund authorization on
3 September 30, 1981.

4 TITLE III

5 MARITIME PRESERVATION PROGRAM

6 SEC. 301. (a) The Act of October 15, 1966 (80 Stat.
7 915), as amended (90 Stat. 1313), is further amended by
8 adding a new title III as follows:

9 “SEC. 301. In recognition of the unique social, economic,
10 cultural, environmental, and historic values associated with
11 the Nation’s maritime heritage and in order to provide leader-
12 ship to stimulate meaningful and imaginative public and
13 private involvement in preserving these values, the Council
14 shall establish—

15 “(1) a separate section of properties significant in
16 American maritime history, architecture, archeology, and
17 culture, within the National Register;

18 “(2) a program of matching grants-in-aid to State
19 and local units of government and nonprofit organizations
20 for projects having as their purpose the preservation for
21 public benefit of maritime properties included in the Na-
22 tional Register; and

23 “(3) a demonstration grants-in-aid program to State
24 and local units of government and nonprofit organizations
25 for projects having as their purpose the preservation for

1 public benefit of maritime properties included in the Na-
2 tional Register.

3 "SEC. 302. The Council shall make grants pursuant to
4 section 301 upon application from any State historic pres-
5 ervation officer, the chief executive officer of a municipal
6 government, other local public body, or nonprofit organiza-
7 tion. The application shall be accompanied by a plan for the
8 preservation of the maritime property for which the appli-
9 cation is made. The Council shall review each plan upon sub-
10 mission and shall either conditionally approve or disapprove
11 the plan within forty-five days from the date of submission. If
12 the Council initially disapproves the plan, or any revision
13 thereto, it shall notify the applicant of the reasons therefor
14 together with recommendations for revision. The plan, fol-
15 lowing its disapproval, may be resubmitted to the Council
16 for approval. The Council shall finally approve the plan
17 if it finds that (1) the plan, if implemented, would preserve
18 or contribute significantly to the preservation of the mari-
19 time property; (2) the public has had a reasonable oppor-
20 tunity to comment upon the plan; and (3) there is reason-
21 able assurance that the plan will be implemented. All grants
22 shall be subject to such terms and conditions as the Council
23 deems appropriate to accomplish the purposes of this title.

24 "SEC. 303. The Council shall issue rules and regulations
25 pursuant to this title within one hundred and twenty days

1 after enactment of this Act. Such rules shall provide, but are
2 not limited to, a requirement that each grant recipient shall
3 obligate all funds under this title by January 1, 1981.

4 “SEC. 304. (a) The Council shall submit annual reports
5 on the operation of the maritime heritage preservation pro-
6 gram to the Congress within ninety days after the anniver-
7 sary date of enactment of this Act.

8 “(b) The Council shall submit a final report to the
9 President and the Congress, which shall include Legisla-
10 tive and budgetary recommendations, on the effectiveness
11 of the program and its future needs by January 31, 1981.

12 “SEC. 305. (a) To carry out the provisions of this title,
13 there is hereby established the Maritime Heritage Fund
14 (hereinafter referred to as the ‘fund’) in the Treasury of the
15 United States. There shall be covered into such fund \$50,-
16 000,000 for fiscal year 1978, \$50,000,000 for fiscal year
17 1979, \$50,000,000 for fiscal year 1980, and \$50,000,000
18 for fiscal year 1981, from revenues due and payable to the
19 United States under the Outer Continental Shelf Lands Act
20 (67 Stat. 462, 469) as amended (43 U.S.C. 338), not-
21 withstanding any provision of law that such proceeds shall
22 be credited to miscellaneous receipts of the Treasury. Such
23 moneys shall be used only to carry out the purposes of this
24 Title and shall be available for expenditure only when ap-
25 propriated by the Congress. Any moneys not appropriated

1 shall remain available in the fund until appropriated for such
 2 purposes: *Provided*, That appropriatons made pursuant to
 3 this section may be made without fiscal year limitation.

4 “(b) For each fiscal year the National Trust for His-
 5 toric Preservation shall receive a grant amounting to not
 6 less than 10 per centum of the appropriation for its maritime
 7 preservation activities pursuant to section 301 (2) .

8 “(c) Up to 25 per centum of any fiscal year appropri-
 9 ation may be used for demonstration grants pursuant to sec-
 10 tion 301 (3) .”.

11 (d) Amend section 201 of the Act of October 15, 1966
 12 (80 Stat. 915), as amended, by (1) deleting the word
 13 “Twelve” in paragraph 18 and inserting in lieu thereof the
 14 word “Thirteen”, and (2) adding the following sentence
 15 at the end of paragraph 18: “One member appointed by the
 16 President pursuant to this section shall have experience in
 17 the field of maritime preservation.”.

18 TITLE IV

19 ADMINISTRATIVE PROVISIONS

20 SEC. 401. The Historic Preservation Fund, established
 21 pursuant to section 108 of the Act of October 15, 1966 (re-
 22 ferred to in section 201 (1)) shall be administered in accord-
 23 ance with the following provisions:

24 (1) For each fiscal year 1978 through 1981 not
 25 less than $7\frac{1}{2}$ per centum of any appropriations made to

1 the fund shall be apportioned for matching grants-in-aid
2 to the National Trust for Historic Preservation for its
3 activities, in accord with section 101 (a) (3) of the Act
4 of October 15, 1966.

5 (2) For each fiscal year 1978 through 1981 not
6 more than 10 per centum of any appropriations made to
7 the fund shall be held as contingency funds by the
8 Council for dispersal to the States or to the National Trust
9 for Historic Preservation for matching purposes in ac-
10 cord with section 101 (a) (3) of the Act of October 15,
11 1966, or in accord with the provisions of subsection
12 203 (5) of this Act, at the discretion of the Council.
13 Any unexpended balances held pursuant to this sub-
14 section shall be reapportioned at the end of two full fiscal
15 years: *Provided*, That (A) any proceeds from a con-
16 veyance of a property interest by the National Trust
17 for Historic Preservation pursuant to subsection 203 (5)
18 shall be redeposited in the United States Treasury
19 and covered into the Council's contingency reserve ac-
20 count in the fund to the amount of the original fund
21 outlay and shall be available for dispersal by the Council
22 without fiscal year limitation, and (B) any excess over
23 the original fund outlay shall be retained by the National
24 Trust for Historic Preservation to further its congression-
25 ally established objectives.

1 SEC. 402. (a) Notwithstanding any other provision of
2 law funds authorized for activities under this Act shall be
3 administered in accordance with the following provisions:

4 (1) Funds appropriated for activities under this
5 Act may be used with other Federal assistance to achieve
6 the purpose of this Act but may not be used to match
7 any other Federal funds.

8 (2) Funds appropriated for activities under this
9 Act may be used to maintain historic and cultural prop-
10 erties.

11 (3) In order to insure that existing residents in
12 districts included in the National Register affected by
13 activities undertaken pursuant to this Act are encour-
14 aged to remain in the district, and to insure that cur-
15 rent uses consistent with the historical, cultural, social,
16 and economic integrity of the district are maintained,
17 funds appropriated under this Act may be used for re-
18 location assistance, rent maintenance, and similar pro-
19 grams within the district.

20 (b) Whenever possible, expenditures incurred in carry-
21 ing out functions in cooperation with other Nations and in-
22 ternational organizations under this Act shall be paid for in
23 such currency of the country or area where the expense is
24 incurred as may be available to the United States.

25 SEC. 403. Each Federal agency shall—

1 (1) expend appropriated funds for the maintenance
2 of properties included in the National Register under its
3 jurisdiction or control and for the performance of the
4 other responsibilities in accordance with this Act, and

5 (2) include the costs of activities under this Act as
6 eligible project costs in all Federal, federally assisted,
7 and federally licensed undertakings. Such costs may in-
8 clude the reimbursement to the office of any State his-
9 toric preservation officer of up to 70 per centum of costs
10 not otherwise matched by Federal grant funds pursuant
11 to section 101 (a) of the Act of October 15, 1966, for
12 administrative and preservation review activities under-
13 taken at the request of Federal agencies in fulfillment of
14 their responsibilities for such properties and in accord-
15 ance with regulations established by the Council.

16 SEC. 404. (a) So much of the personnel, property, rec-
17 ords, unexpended balances or appropriations, allocations,
18 and other funds held, used, programed, and available to or
19 to be made available to the Secretary from the fund; to the
20 National Park Service for its activities under its budget line
21 item "Preservation of Historic Properties"; and such addi-
22 tional funds and positions from other accounts of the Secre-
23 tary or the National Park Service related or in support of
24 activities under this Act as the Director of the Office of Man-

1 agement and Budget determines, shall be transferred from
2 the Department of the Interior to the Council within ninety
3 days after the effective date of this Act.

4 (b) Any employee in the competitive service of the
5 United States transferred to the Council under the provisions
6 of this section shall retain all rights, benefits, and privileges
7 pertaining thereto held prior to such transfer.

8 SEC. 405. The Chairperson and Vice Chairperson of the
9 Council designated by the President pursuant to section 201
10 (e) of the Act of October 15, 1966 (80 Stat. 915), as
11 amended (90 Stat. 1313, 1320), shall be appointed with
12 the advice and consent of the Senate. (Formerly section
13 201(1).).

14 SEC. 406. There are hereby authorized to be appropri-
15 ated to the Council such funds as are necessary to carry out
16 such activities as the Council is authorized by Congress to
17 undertake until September 30, 1981.

18 SEC. 407. For the purposes of this Act—

19 (1) the term “agency” means “agency” as such
20 term is defined in section 551 of title 5, United States
21 Code;

22 (2) the term “Council” means the Council on
23 Historic Preservation;

24 (3) the term “historic and cultural properties”

1 includes historic, architectural, archeological, and cul-
2 tural properties (including vessels, ship logs and records,
3 port and related facilities, and marine wrecks) ;

4 (4) the term "National Register" means the Na-
5 tional Register of Historic Places;

6 (5) the term "Secretary" means the Secretary of
7 the Interior; and

8 (6) the term "State" means any State of the
9 United States, the District of Columbia, the Common-
10 wealth of Puerto Rico, and any territory or possession
11 of the United States.

A BILL

To establish a national policy for the preservation of historic, architectural, archeological, and cultural resources, to establish a coordinated national historic preservation program, to establish a maritime heritage preservation program, and for other purposes.

By Mr. MURPHY of New York

SEPTEMBER 26, 1977

Referred jointly to the Committees on Interior and
Insular Affairs and Merchant Marine and Fisheries